

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZHEN MING CHEN,

Plaintiff,

-v-

OCHA SUSHI INC. *et al.*,

Defendants.

No. 17-cv-3162 (RJS)
JUDGMENT

RICHARD J. SULLIVAN, Circuit Judge:

On January 10, 2018, the Court issued an order approving the parties' settlement agreement in this matter and retaining jurisdiction to enforce it. (Doc. No. 39); *see Wolinsky v. Scholastic Inc.*, 900 F. Supp. 2d 332, 335–37 (S.D.N.Y. 2012). On April 3, 2020, counsel for Plaintiff filed a letter with the court seeking to reopen the case due to Defendants' noncompliance with the terms of the settlement agreement. (Doc. No. 43). The Court then issued a memo endorsement on April 6, 2020 ordering Defendants to respond to Plaintiff's letter by April 10, 2020. (Doc. No. 44). When Defendants failed to comply with the Court's April 6, 2020 order, the Court issued another order, dated October 30, 2020, directing (1) Plaintiff to file a formal motion to enforce the settlement by November 6, 2020, and (2) Defendants to respond to Plaintiff's motion within five business days. (Doc. No. 45). The Court also advised that parties that if Defendants failed to respond to Plaintiff's motion within five business days, the Court would issue a default judgment in Plaintiff's favor. (*Id.*)

On November 6, 2020, counsel for Plaintiff filed a timely motion, along with supporting affidavits, to enforce the settlement. (Doc. No. 46). Unfortunately, Defendants have again failed to comply with the Court's orders. Accordingly, IT IS HEREBY ORDERED THAT, pursuant to the parties' settlement agreement, judgement is entered in favor of Plaintiff Zhen Ming Chen and against Defendants Ocha Sushi Inc., d/b/a A1 Ocha Sushi, Ya Ru Chen, Yong Fang Lin, and Ben Qiu Chen in the amount of \$31,000, to be divided among Plaintiff and Plaintiff's counsel as follows: (1) the first \$4,000 of

the judgment shall be divided into two payments of \$1,281.40 payable to Plaintiff Zhen Ming Chen and two payments of \$718.60 payable to Hang & Associates, PLLC., to reflect the parties' agreement that counsel was entitled to the fees and costs incurred in litigating this action; and (2) the remaining \$27,000 shall be apportioned so that Hang & Associates, PLLC., will receive one-third and Plaintiff Zhen Ming Chen will receive two-thirds of the liquidated damages. (*See* Doc. No. 41-1). IT IS FURTHER ORDERED that Defendants shall pay \$711.12 in interest, divided in proportion to the payments under the settlement, with \$455.62 payable to Plaintiff Zhen Ming Chen and \$255.50 payable to Hang & Associates, PLLC.¹ The Clerk of Court is respectfully directed to terminate the motions at Doc. Nos. 43 and 46.

SO ORDERED.

Dated: November 30, 2020
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation

¹ The Court calculated interest at 9% of \$4,000 from December 10, 2018, when final payment was due under the settlement, until today's date. *See* N.Y. C.P.L.R. §§ 5001(b) (date), 5004 (rate).